

Service Date: November 16, 1993

FINAL ORDER NO. 6267

DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION
1701 Prospect Avenue, P.O. Box 202601
Helena, Montana 59620-2601

IN THE MATTER OF the application of)
MCGREE TRUCKING, INC., Butte, Montana) Docket No. T-93.122.PCN
for a Montana Intrastate Certificate)
of Public Convenience and Necessity.) Order No. 6267

The Commission, having taken evidence and being fully advised in the premises, makes the following findings, conclusions and order:

FINDINGS OF FACT

1. On August 24, 1993, McGree Trucking, Inc., 2001 George Street, Butte, Montana 59701 filed an application with the Montana Public Service Commission under Title 69, MCA, for a Certificate of Public Convenience and Necessity authorizing transportation of the following:

Class D - Garbage and recyclables between all points and places in Jefferson and Powell Counties. Carrier is allowed to transport commodities to certified landfills and recycling centers in the State of Montana from territory authorized. Limitations: Transportation is limited to roll-off box service and transfer trailer service to certified landfills and recycling centers.

2. In accordance with Section 69-23-321, MCA, as amended,

this matter was noticed to the public September 8, 1993. That notice said in pertinent part:

If no written protests are received by September 28, 1993, a hearing may not be held and a final order may be issued in this Docket. If a protest is received, a hearing will be scheduled. Individual notice of the hearing will be given only to Protestants and Applicant.

3. The application included affidavits of support from the County Commissioners of Powell and Jefferson Counties.

4. Protests were filed by Gordon Giulio dba Giulio Disposal, Boulder, Montana; City-County Sanitation Services, Helena, Montana; and Browning-Ferris Industries (BFI), Missoula, Montana.

5. On October 5, 1993, Applicant filed a motion to dismiss the protest of Browning Ferris Industries. The Commission on October 12, 1993, voted to grant the motion and dismissed the protest of BFI. Browning Ferris Industries holds no competing authority in McGrees's proposed areas of service and therefore has no stand to protest need. The protest of BFI as filed was confined to need and no other element of a grant of authority.

6. Applicant on October 20, 1993, amended the proposed service area in Docket T-93.122.PCN to Powell County only. The protests of Gordon Giulio and City-County Sanitation Services were subsequently withdrawn.

7. Browning-Ferris Industries on October 25, 1993, filed correspondence with the Commission encouraging it to conduct a hearing on its own motion. Since the application of McGree Trucking, Inc. was properly accompanied by supporting affidavits from Powell County, the Commission determined that a public hearing was not necessary.

8. The record of this application is available for inspection at the Public Service Commission Office, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this proceeding.

2. The Commission afforded all parties interested in this proceeding proper notice and an opportunity to participate.

3. Public Convenience and Necessity require a grant of the authority sought by the Applicant.

ORDER

NOW THEREFORE, at a session of the Public Service Commission, Department of Public Service Regulation of the State of Montana, held in its offices at 1701 Prospect Avenue, Helena, Montana, on the 3rd day of November, 1993, there being present a quorum of Commissioners, there came regularly before the Commission for

final action the matters and things in Docket No. T93.122.PCN, and the Commission being fully advised in the premises;

IT IS ORDERED by the Commission that the application of McGree Trucking, Inc., Butte, Montana, for a Certificate of Public Convenience and Necessity IS GRANTED to the following extent:

Class D - Garbage and recyclables between all points and places in Powell County. Carrier is allowed to transport commodities to certified landfills and recycling centers in the State of Montana from territory authorized. Limitations: Transportation is limited to roll-off box service and transfer trailer service to certified landfills and recycling centers.

IT IS FURTHER ORDERED that a full, true and correct copy of this order be sent forthwith by first class mail to the applicant and all parties herein.

THE FOREGOING ORDER was adopted by the Department of Public Service Regulation of the State of Montana, Public Service Commission, IN OPEN SESSION at Helena, Montana, this 3rd day of November, 1993, by a vote of 4 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

BOB ANDERSON, Chairman

BOB ROWE, Vice Chairman

NANCY McCAFFREE, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.